vss

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3221 OF 2003
IN
SUIT NO.3270 OF 2003

Shamji Khimji Shah ... Plaintiff

V/s.

Khimji Palace Co-op.Hsg.Society ... Defendant

None for Plaintiff
Mr.M. Shah i/b Bharat Joshi for Defendant

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **MARCH 10, 2006**

P.C.:

. The prayers sought in the Notice of Motion taken out by the Plaintiff are for restraining the Defendant-Society from creating impediments in any manner in the construction of the extension to the society building which was to be carried out by the plaintiff and for an injunction against the defendants from demolishing any construction carried out by the plaintiff.

2. The learned Advocate for the Defendants points out that the construction is already complete and the plaintiff has amended his suit accordingly by adding paragraphs 32A, 36A and prayer clause (f) which indicate

that the plaintiff is aware that the construction is complete. In these circumstances, he submits that the Motion has become infructuous.

3. Nobody appears for the plaintiff. In my view, the Motion has become infructuous in view of the fact that the construction is already complete. Motion is dismissed as infructuous.